THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11659 of 2005

Dated:25.07.2007

Between:

Naguri Mallaiah, S/o.Baba Routhu.

…Petitioner

and

The District Collector,
Collectorate, kadapa,
and another.

…Respondents

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WRIT PETITION No.11659 of 2005

ORDER:

The petitioner is a resident of Vangimallavandlapalli, Hamlet of Routhukunta Village and Mandal of Sambepalli Mandal in Kadapa District. He is statedly owner of land admeasuring Ac.1.27 cents in Survey No.225 situated in his Village. His wife is also the owner of another extent of Acs.4.00. It is the case of the petitioner that his family dug three bore wells for irrigating their lands and obtained electricity connection (Service Connection No.1062) for the purpose of agriculture. When one Naguru Siddulu Sab, petitioner's neighbour, raised objection for drawing water from the bore wells, the petitioner filed a suit, being O.S.No.108 of 2005, on the file of the Court of the Principal Junior Civil Judge, Rayachoty, and obtained *ad interim* injunction in I.A.No.453 of 2005. Even while the injunction is pending, it is alleged, that the respondents are forcing the petitioner to disconnect the electricity supply and also proposing to disconnect the bore well. Therefore, the present Writ Petition is filed.

This Court while admitting the Writ Petition on 24.05.2005 granted interim stay of all further proceedings. The respondents filed an application, being W.V.M.P.No.3574 of 2005, on 27.12.2005 for vacating the interim order. When these applications are called today, the matter is heard finally with the consent of the learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-A).

In the counter affidavit it is alleged that the petitioner dug a bore well on 24.04.2005 in Survey No.225 without obtaining prior permission from the authorities. Therefore, the Andhra Pradesh Water, Land and Trees Act, 2002 (for short 'the Act'), is applicable, and the petitioner dug bore well in violation of the Act. Even before any action is initiated against the petitioner, the petitioner filed the present Writ Petition and obtained interim orders. Therefore, further action was not taken. The other allegations made by the petitioner are denied. The petitioner has not filed any reply affidavit denying the counter averments.

Learned Counsel for the petitioner submits that the petitioner dug bore wells in 1995 when the Act was not in force, therefore, it has no application. This is, however, denied by the learned Assistant Government Pleader. Indeed, as pointed out by him, in the counter affidavit filed by the Mandal Revenue Officer, a categorical averment is made that the petitioner dug a bore well in April 2005 in Survey No.225 after coming into force of the Act. This is not denied. Further, even before the Mandal Revenue Officer could initiate any action under the Act, the present Writ Petition is filed on a mere apprehension. Therefore, the Writ Petition is misconceived. It is always open to the authorities to follow due procedure contemplated under the Act and take necessary action against the petitioner if he has violated any provisions of the Act.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

25.07.2007
vs